

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Daniel Alec Gulkis

Art Unit: 2194

Application number: 10/711,612

Confirmation No.: 5611

Filed: September 28, 2004

Examiner: Truong, Lechi

For: *System and Method for Remoting TWAIN*
Function Calls From a User Session to a Client

Attorney Docket No.: 2006579-0316 (CTX-103)

MS AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Examiner:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Responsive to the Final Office Action mailed on August 4, 2009, and accompanying a Notice of Appeal to the Board of Appeals and Interferences in the United States Patent and Trademark Office appealing the rejection of Claims 1-23 and 41-45 in the above-referenced case. Applicant requests that a pre-appeal brief review be conducted and that consideration be given to the following remarks, pursuant to the July 12, 2005, Official Gazette Notice titled “New Pre-Appeal Brief Conference Pilot Program.”

Remarks/Arguments begin on page 2 of this paper.

REMARKS/ARGUMENTS

Applicant respectfully submits that the Examiner's rejection contains clear errors of fact. Claims 1, 5, 8-11, 16-18, 20 and 22-23 are rejected under 35 USC § 103(a) as unpatentable over U.S. Patent Number 7,319,537 to Kikuchi ("Kikuchi") in view of U.S. Patent Publication Number 2003/0014368 to Leurig ("Leurig") and in further view of U.S. Patent Number 7,496,234 to Li ("Li.") Claim 2 is rejected under 35 USC § 103(a) as unpatentable over Kikuchi in view of Leurig in view of Li and in further view of U.S. Patent Number 6,654,784 to Wei ("Wei.") Claims 3, 4 and 19 are rejected under 35 USC § 103(a) as unpatentable over Kikuchi in view of Leurig in view of Li and in further view of Admitted Prior Art ("APA.") Claims 6 and 7 are rejected under 35 USC § 103(a) as unpatentable over Kikuchi in view of Leurig in view of Li and in further view of U.S. Patent Number 7,095,905 to Peterson ("Peterson.") Claims 12-15 and 21 are rejected under 35 USC § 103(a) as unpatentable over Kikuchi in view of Leurig in view of Li and in further view of U.S. Patent Number 5,267,051 to Dellert ("Dellert.") Claims 41-45 are rejected under 35 USC § 103(a) as unpatentable over Kikuchi in view of Leurig in view of Li and in further view of U.S. Patent Publication Number 2006/0123079 to Sturniolo ("Sturniolo.") Claims 1, 17 and 41 are independent Claims.

I. Kikuchi Fails to Teach or Suggest Selecting a TWAIN proxy Application From a Plurality of TWAIN Proxy Applications

The Examiner's assertion that Kikuchi teaches or suggests selecting a TWAIN proxy application from a plurality of TWAIN proxy applications, contains clear error. Applicant submits that Kikuchi does not teach or suggest "selecting a proxy application from a plurality of proxy applications executing on a client communicating with a server via a presentation-level protocol, the selected proxy application associated with an application executing on the server."

At best Kikuchi describes a server that "manages and operates" a local TWAIN device using a TWAIN driver, and exchanges application requests and TWAIN compatible image data with a TWAIN driver on a network. Thus, Kikuchi describes exchanging requests and image information using a single local TWAIN driver and a single network TWAIN driver. At no point does Kikuchi describe selecting a proxy application from a plurality of proxy applications or any

other TWAIN driver selection process. For this reason, Kikuchi does not teach or even suggest selecting a TWAIN proxy application from a plurality of TWAIN proxy applications.

II. Leurig and Li Combined with Kikuchi Fails to Teach or Suggest Selecting a TWAIN proxy Application From a Plurality of TWAIN Proxy Applications

The Examiner's assertion that Kikuchi in combination with Leurig and Li teaches or suggests selecting a TWAIN proxy application from a plurality of TWAIN proxy applications, contains clear error because Leurig and Li fail to cure the deficiencies in Kikuchi.

As admitted by the Examiner in the Office Action mailed on August 4, 2009 and the Office Action mailed on January 28, 2009, Leurig does not teach or suggest selecting a TWAIN proxy application from a plurality of TWAIN proxy applications.

Like Leurig, Li also does not teach or suggest selecting a TWAIN proxy application from a plurality of TWAIN proxy applications. The Examiner cites Li merely to address selecting using a demultiplexor executing on a client. Li describes using a seamless multiplexer to multiplex embedded bitstreams. At no point does Li teach or even suggest selecting a TWAIN proxy application from a plurality of TWAIN proxy applications.

III. Conclusion

With regard to the additional references cited by the Examiner, (e.g. Leone, Wei, APA, Peterson, Dellert and Sturniolo,) as stated in the response submitted on April 28, 2009 and reiterated here with force, none of these references teach or suggest selecting a TWAIN proxy application from a plurality of TWAIN proxy applications.

In light of these remarks, Applicant submits that independent Claims 1, 17 and 41 are patentable over any combination of the art cited by the Examiner. Accordingly, dependent Claims 2-16, 18-23 and 42-45 are also patentable over any combination of the art cited by the Examiner, because each dependent claim depends on and incorporates the limitations of the independent claims. Thus, Applicant urges the Examiner to review the pending claims in light of the above arguments and pass these claims to issuance.

Respectfully submitted,
CHOATE, HALL & STEWART LLP

Date: November 4, 2009

/Kellan D. Ponikiewicz/
Kellan D. Ponikiewicz
Registration Number: 59,701

Patent Group
CHOATE, HALL & STEWART LLP
Two International Place
Boston, MA 02110
Phone: (617) 248-5000
Fax: (617) 502-5002